

Chu's Pearls

July 14, 2006

Federal Trade Commission/Office of the Secretary, Room H-135 (Annex W)
Re: Business Opportunity Rule, R511993
600 Pennsylvania Avenue, NW
Washington, DC 20580
RE: Business Opportunity Rule, R511993

Dear Sir or Madam:

I am writing this letter because I am concerned about the proposed New Business Opportunity Rule R511993. I am afraid that in its present form, it could hurt Chu's Pearls, LLC. I understand that part of the FTC's responsibilities is to protect the public from "unfair and deceptive acts or practices," but some of the sections in the proposed rule will make it very difficult if not impossible for Chu's Pearls, LLC to continue as business.

Chu's Pearls, LLC was founded in May 2004. We sell freshwater pearl and sterling silver jewelry. We currently have 5 independent distributors with approximately \$100,000 in sales.

One of the most confusing and burdensome sections of the proposed rule is the seven day waiting period to enroll new Distributors. Chu's Pearls sales kit only costs \$100 plus tax and shipping. Consumers make many purchases such as TVs, cars, and other items that cost much more than that and they do not have to wait seven-days. This waiting period creates the impression that there might be something wrong with the plan. This seven-day waiting period is unnecessary, because Chu's Pearls, LLC already has a 90% buyback policy for all products including sales kits purchased by a salesperson within the last twelve months. Under this waiting period requirement, Chu's Pearls, LLC will need to keep very detailed records when a Chu's Pearls Distributor first makes contact with a prospective purchaser and will then have to retain these documents for three years. The related administrative costs will be unduly expensive.

Under the proposed rule, Chu's Pearls plan would fall under FTC regulatory authority, since the existing \$500 threshold under existing franchise rule will be eliminated and Chu's Pearls, LLC will now have to produce numerous pieces of documented materials in order to comply with the proposed rule.

The proposed rule also calls for the release of any information regarding prior litigation and civil or criminal legal actions involving misrepresentation, or unfair or deceptive practices. It does not matter if the company was found innocent. Today, anyone or any company can be sued for almost anything. We at Chu's Pearls, LLC see little value in disclosing these lawsuits unless Chu's Pearls is found guilty. Otherwise, Chu's Pearls, LLC is put at an unfair advantage even though we have done nothing wrong. In addition, it seems that everyone throws claims for misrepresentation into every complaint these days. Should prospective distributors be concerned, for example, about litigation between the company and a software provider if their contract dispute contains a claim for misrepresentation? It seems appropriate to include only litigation that is related to the earning opportunity offered to the prospective distributor.

The proposed rule requires direct sellers to gather information such as time periods, Distributor demographic/geographic data and earnings claims. We are concerned that this approach will be ineffective in preventing the targeted business opportunity fraud, since those perpetuating fraudulent business opportunities will not provide accurate data. However, direct sellers such as Chu's Pearls,

which will try to faithfully comply, will have the difficult if not impossible challenge of interpreting and meeting some of the proposed requirements.

Finally, the proposed rule requires the disclosure of a minimum of 10 prior purchasers nearest to the prospective purchaser. Chu's Pearls, LLC is glad to provide references, but in these days of identity theft, we are very uncomfortable giving out the personal information of individuals (without their approval) to strangers. Ironically, the requirement to provide references may result in privacy lawsuits, which under the proposed rule, we would have to report. Also, giving out this information without any controls on how it could be used will very likely and unfairly benefit our competitors. In order to generate the list of the 10 prior purchasers, we will need to obtain the address of the prospective purchaser, search our database for the geographically nearest existing distributors, use a software program or online service such as Mapquest to confirm these are the correct distributors, and then send these results to the new potential distributor. The following sentence required by the proposed rule will prevent many people from wanting to sign up as a salesperson "If you buy a business opportunity from the seller, your contact information can be disclosed in the future to other buyers." People are very concerned about their privacy and identity theft and so are we from a privacy litigation standpoint. Individuals will be reluctant to share their personal information with individuals they may have never met.

In conclusion, as the owner of a small business wishing to grow through direct sales, I must say the current rules in place are already more than enough protection for potential distributors. I know of no other business where you can start for \$100, quit within one year and get 90% of your investment back. My suppliers certainly never give me this luxury, even if the product is broken or defective. If the FTC makes a decision that creates an even greater burden on direct selling companies, small and start-up companies such as ours will never get a chance to get off the ground, leaving little competition for the bigger firms that may find a way to be compliant. I would like to see the burden of personal responsibility be put a bit more on independent sales representatives who are given an income earning opportunity by honest, forthright companies such as our own, and choose to do nothing with it. Instead the FTC is moving in the direction of saddling our company, and our successful, hardworking distributors, with even more unnecessary paperwork and hoops to jump through. We shouldn't be treated as guilty when we haven't done anything wrong. While Chu's Pearls appreciates the work of the FTC to protect consumers, we believe this proposed new rule has many unintended consequences, which may destroy our business. We also believe that there are less burdensome alternatives available in achieving the consumer protection goals stated in the proposed rule.

Thank you for your time in considering our comments.

Sincerely,

Elizabeth Chu, President
Chu's Pearls, LLC